EXTRA.

DIVVER'S TRIAL UNDER WAY

Lawyer Hale Charges Him With Misdemeanor and Malfeasance.

TEKULSKY MAN ON THE STAND

Bartender Burrows Says He Saw No Fight but a Little Tussie.

DIVVER HAD BEEN DRINKING.

The Court First Took a Recess to Decide Whether to Dismiss the Charges.



alleges that Divver has been guilty of

sundry misdemeanors and malfeasance

in office.

Second Warders Out in Force.

Second Warders Out in Force.

The doors had been opened meanwhile, and every available place in the court-room had been taken possession of by the crowd of Second Warders, who had come out to support and encourage their leader.

Mr. Rollins began by saying that he did not think Justice Divver should be asked to make any answer at present to the charges against him, as he had not time to prepare to meet them.

"This is a novel rnd infrequent proceeding, and counsel are not decided as to whether these charges should be taken up one by one and disposed of separately, or whether they should be taken all together, and judgment demanded upon the whole series at once," he remarked.

Mr. Rollins went into a long and general discussion of the charges, and declared that they were vague and indefinite and that it would be unfair to compel his client to answer them unless they were made more specific.

"I think there ought to be some affidavits in support of these charges before they can properly be brought to the attention of this Bench," said he, "The machinery of this court ought not to be set in motion in a proceeding of this kind except upon a most serious presentation of the case against the defendant."

Says the Charges Are Vague.

Says the Charges Are Vague.

He then went over the charges separately, and declared that in each of the four counts no definite facts were presented, and that all the accusations were so vague and uncertain, both as regards time and place, that they should not be entertained by the Court, in their present form at least.

He pointed out that all the charges were made upon information and belief, and that the affidavit of William H. Hale, the Brooklyn lawyer, who appeared as attorney for the six taxpayers, was no stronger than the statement of his clients.

Mr. Rollins insisted that the technical objection which he made was valid, and that the charges should not be entertained.

"Then this is, in effect, a motion to

dismiss the charges?" asked Chief Jus-tice Daly.
"It is, Your Honor," replied Mr. Rol-lins, "on the first ground that there is no sufficient affidavit accompanying the charges, and on the second ground that there is a want of specific statement as to the source of information of these six taxpayers, who say that they only make the charges on information and belief."

The Six Signers to the Charges.

The six Signers to the Charges.

The names of the six accusers of Justice Divver are Franz Kohlenberg, Charles E. Sprague, Isaac K. Funk, Henry V. Parsell, John F. Harrison and Nathaniel H. White, and Mr. Rollins said that there was no evidence that any one of them knew anything personally in regard to the matter with which they charged the Police Justice.

In reply, Lawyer Hale, who was unsupported by any other counsel, stated that in the absence of precedent be thought the charges should be regarded in the nature of an ordinary complaint. He maintained that it was not necessary to have any affidavit in support of the charges, which were based upon sworn testimony taken before the Lexow Committee or were matters of noterious report, and known to every citizen.

Intimation of Underhand Work.

Ex-Surrogate Rollins Speaking in Divver's Behalf.

Police Justice Patrick Divver was placed on trial in the Court of Common Pleas this afternoon on charges preferred by Lawyer Hale, of Brooklyn. He "We have not included in the charges

When the case was called this morning, ex-Surrogate Daniel Rollins, counsel for Divver, asked for a dismissal of the charges on the grounds that they were indefinite. On his motion the Court adjourned until 2 P. M. to decide whether to dismiss the charges or not.

When court reconvened Justice Daly announced that the charges, with one exception, were sufficiently specific to warrant the trial proceeding.

These extraordinary impeachment proceedings require the attendance of the full berch of the Court of Common Pleas, which consists of Chief Justice Joseph F. Daly, and Judges Henry W. Bookstaver, Henry Bischoff, jr., Roger A. Pryor, Leonard A. Giegerich, and Miles Beach, and special rules have been adopted for the conduct of the case.

The charges against Divver were filed

been adopted for the conduct of the case.

The charges against Divver were filed twenty days in which to answer them. This time expliced yesterday, and up to 10 o'clock this morning Clerk Wagstaff, of the Court of Common Fleas, had received no reply from Mr. Divver or his representatives.

The Charges Against Divver.

He is charged with high crimes and middemeanors, and violations of the statutes of the State in having been habitually careless, negligent and inafficient in the discharge of his duties as a police justice; in having committed a brutal assault upon Liquor Dealer Morris Tekulsky, and engaged in a public brawl; in having instigated violations of the Election law by assisting in fraudulent registration and voting, and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting, and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting, and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting and in having been engaged in the green-goods business with the notorious Educations of the Election law by assisting in fraudulent registration and voting and the end the fract hat the total the informality of the ch

ward Parmeley Jones, with whom he is alleged to have divided the profits of the swindle.

Justice Divver's chief counsel in these proceedings is ex-Surrogate Daniel G. Rollins, and associated with him is Lawyer Abraham Levy. They were among the earliest comers this morning and arrived in the court-room before the crowd had been admitted. Justice Divver accompanied them, and it was said that he was prepared to make a general denial of the charges.

Lawyer Levy stated that while he did not intend to give any outline of his programme in advance he would say that he did not think there was the elightest foundation for the charges, and acciared that he expected to see the bettom fail out of them.

"The proceedings are of such a nature that on this account I think we should go about answering these charges very deliberately," said he.

Justice Divver looked somewhat wornied, despite the assurances of ans counsel, he was sprucely dressed, and after laying his glossy silk hat upon the table, began to finger nervousity a builte of documents, which he had brought wild him.

The Judges filed into the court-room

Levy Expects a Dismissal.

Lawyer Levy stated that while he did not think there was the elightest foundation for the charges, and active filed the second of the court fails and dilegal voting and frequently and him the court seconvened at 2 o'clock with his counsel to hear the decision on Mr. Rollins's motion to dismiss the charge.

When the court reconvened at 2 o'clock with his counsel to hear the decision on Mr. Rollins's motion to dismiss the charge.

Decisions of counsel to a want of form has well as the substance of the charges, the Court of the charges. The company of the charges and take an adjournment till 2 o'clock, when it would reconvene and announce its decision.

The case of Charles Harris, the Lexow with the court reconvened at 2 o'clock with the court reconvened at 2 o'clock and the cou

on the subject. They are not numerous, because the precedents of the County Court in trying charges against Folice Justices have not been frequent, and we find some diversity of epinion. In the matter of Leonard, in 1840, we found the charges and verifications to be the same in effect as those in the present case.

Judge Daly went into the particulars of this case, and said objections similar to the ones made by Mr. Rollins were not sustained by the Court. Continuing, he said:

We consider ourselves bound by that decision, and hold that the verification in this case is sufficient.

Taking up the objections to the form and substance of the charges, Chief Justice Daly went over each of the charges separately, and in the case of the of the three counts held that each was sufficiently specific, according to the precedents, and that they were sufficient to put the respondent on his defense. The charges and specifications, he said, were directly within the statute, and that to each of these charges Justice Divver was called to respond. This was the unanimous opinion of the Court, he said. Green-Goods Charge Not Definite Enough.

On the fourth charge, that which implicated Justice Divver in the greengoods business, the opinion of the Court
was the specifications were not sufficient and the objection to it made by
Mr. Rollins was sustained.

Judge Pryor differed in some respects
from the opinion of his colleagues in his
views of the third charge and read an
opinion on the subject in which he took
an extreme view on the perniclousness
of stimulating competition for securing
votes by offering prizes to the district
leaders.

leaders.

In behalf of Divver, Mr. Rollins took an exception to the ruling of the Court when it was decided that the prosecution could go on with the examination of witnesses without further delay.

Lawver Hale announced that he had subpoensed a number of witnesses, among them James F. Keating, the ex-Warden of Ludlow Street Jali, and two of the bartenders in Morris Tekulsky's saloon.

Tekulsky's Bartender Called.

Tekulsky's Hartender Called.

James E. Burrows, one of three bartenders, was the first witness called. He was subpoensed under the name of "John Doc." by Mr. Hale himself, last Saturday night, who went to the saloon to sere Tekulsky.

The witness admitted that he had been subpoensed, but did not know where Tekulsky was. He heard that he was somewhere up in Fourteenth street. Kenney, the other barkeeper, was off duty and not in court.

Mr. Hale-Were you in the saloon on Oct. If last A yes, sir.

Q. Were Mr. Tekulsky and Justive Divver there?

A Yes, they were talking together and had some sort of an argument.

know.

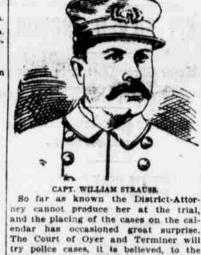
Q. Was there any fighting? A. Not that I asw. They were pushing each other about a little. That's all I saw. The witness said he saw no striking, and that neither of them appeared to be bruised. Divver had been there for two or three hours, and had been drinking a good deal of wine.

He declared it was malfeasance

high nrime or misdemeanor, mai or corrupt con-duct or other offices whatsoever, particularly or otherwise alleged in the paper, writing or matter

selling that he ought not to be injured in any

the said supposed charges, and each of them con-tained, and the design and intention proposed therein to be charged against him; and he avows



So far as known the District-Attor-ncy cannot produce her at the trial, endar has occasioned great surprise. The Court of Oyer and Terminer will try police cases, it is believed, to the exclusion of all other business from Wednesday next. Capt. Schmittberger, it is said, will be the first one tried.

charges.

He was told that this would have to be decided later on.

The Court then heard Justice Divver's reply to the charges witch was presented by Lawyer Levy, who read the following affidavit:

Creeden.

This is to be the Lexow Committee's week to go from Higher Up to Highest Up, and Lawyers Goff. Jerome and Moss are confident that the ascension will be speedy and effective.

purporting to hand called frages subtiling or matter purporting to hand called frages subtilited against him and sided in the office of the Clerk of this Honorable Court, which he is or can be bound by law to answer unto, and now and at all benefit of exception to the sufficiency of the said supposed charges and each and every

PROXY FRENCH COMES NEXT.

It Is Said He Will Appear Before the Lexow Committee.

(Continued or Sixth Page.)

COL. FELLOWS TAKES ACTION.

Arranges for the Trial of Schmittberger, Doherty, Parkerson, Et Al.

ON WEDNESDAY'S CALENDAR

Three Sergeauts of the Leonard Street Station Indicted.

HORNE'S TALE BEARS FRUIT

Lexow Predicts Startling Develments at This Week's

District-Attorney Follows ordered this afternoon that the following cases be put on the calendar in the Court of Oyer and Terminer on Wednesday morning for trial.

Michael Doherty, ex-Sergt. Charles A James W. Jordan, George Leibers and ex-Ward Men John Hock, James Burns, Bernard Meehan and George

the police officials recently indicted by the Grand Jury. In the cases of ex-Capt. Doherty, the five police sergeants and Ward Men Hock and Mechan, the most important witness was Mrs. Thu-row. Without her testimony it was said



Criminal Court House that three police was clear and pleasant, however, and sergeants of the Leonard street station the scratches were very few. have been indicted by the Grand Jury today and bench warrants issued for them, It was said that they would be arrested this afternoon. Their names were not day. given out, but they are, it is said, ser-geants who have been on duty during the time that Thorne has been attached have concluded their labors in the case,

to that station. As Thorne did not personally go before the Grand Jury to-day the indictments were found upon information furnished in the confession which he made on Saturday, a copy of which was taken by a stenographer at the instance of Assistant District-Attorney Lindsay.

office. He also spoke very severely of the charge that Divver had been connected with the green-goods business, and the enormity of elevating a criminal to the Bench, and of a person guilty of a crime dispensing justice. He dissented from his colleagues in sustaining the objection to the last charge.

Judge Daly said the Court would give Lawyer Hale an opportunity to amend the fourth charge so as to bring it within the statute. The chief objection to a sustaining Mr. Rollins in regard to this charge was that the alleged connection of Divver with the green-goods business occurred prior to his elevation to the Bench. The fifth charge was sustained by the Court.

Mr. Hale said that he would make the necessary amendment, and wanted to know if this would interfere with the pearing and investigation of the other charges.

He was told that this would have to be

sented by Lawyer Levy, who read the following affidavit:

Divver's Affidavit.

Court of Comman Pleas for the City and County of New York:

In the matter of the charges filed against Patrick Divver, a Police Justice of the City and County of New York.

Patrick Divver, a Police Justice of the City and County of New York.

Patrick Divver, a Police Justice of the City and County of New York, and the respondent and County of New York, and the respondent above-named, comes hefore this Honorable Court in his own proper person and protesting that no high arime or misdemeanor, mai or corrupt conduct or other offense whatsoever, pemicutariy or otherwise alleged in the paper, writing or matter purporting tobe and called cherges eshibited against "I'd rather not make a direct reply to

Now comes a rumor that Stephen B. French, a former President of the Police Board, will be a witness before the Lexow Committee.

Mr. French was appointed to the Po-

CHRISTMAS IS COMING.



All the Good Little Boys Are Hurrying to Join Supt. Strong's Sunday-School in Time for the Christmas Tree.

> EUGENE KELLY, SR., DYING. Doctors Hold Out Little Hope the

He May See Another Day, Eugene Kelly, sr., the banker, worse this morning.

The doctors left his bedside at o'clock this morning and returned at

SON MALHEUR, 6 TO I.

With Ham Up, Takes the First Event in a Drive.

His death is momentarily expected.

Mr. Kelly became seriously ill on Dec.
4. He was stricken with paralysis. He
railied, however, and physicians hoped
his strong constitution would pull him
through. A trip South was arranged for.
He was largely interested in banking
business in Savannah and other South-Second Race Goes to Levina, with

Jockeys Kept Out of the Betting Ring at Alexander.

RACE TRACK, ALEXANDER ISL. AND, Dec. 17.-The going at Alexander Island track to-day was slow, the rain It transpired this afternoon at the of last night having left its effects. It pencillers were on the line, and the attendance above the average for a Mon-

in the Ponce do Leon investigation, al-though the officials are understood to



Pour and a ball furiongs: an Four and a Ball furious bettles, 8 H. Staries.

Staries.

Son Malheur, 102 (Hami 6-1 2-1 1 2)

My Girl cold. 105 (Yetter) 7-2 4-5 1 3

Jack Lovel, 105 (Garter) 5-3 4-5 1 5

Jack Lovel, 105 (Garter) 5-5 4-5 2

Jack Lovel, 105 (Garter) 5-5 4-5 2

Jack Lovel, 105 (Garter) 5-5 1-5 1 5

The Johns, 105 (Chentalian) 5-1 5-1 1 6

The Johns, 105 (Chentalian) 25-1 7

The s of Farms 105 (Carbery 8-1 2-1 4

Jack of Hermathon, 105 (Hamarhon, 105 1 1 4

Jack of Hermathon, 105 (Hamarhon, 105 1 1 1 4

Jack of Hermathon, 105 (Hamarhon, 105 1 1 1 1 1

Watch Charm, 105 (A Moorethe) 20-1 5 12

Pells, 107 (E. Tribe) 40-1 15-1 15-1

There was a long dalay at the con-

Smoke "Programme,"

 Six furiougs.
 Betting Bt Hif Pin

 Starters.
 Levina 72 (Corbies)
 even out 1 17 14

 Birucca.
 113 (Bender)
 6-5 2-5 3 22 23

 Woodchapper, 112 (Daylet.
 10-1 25-1 2-5 4 5 4

 Jack Wynne.
 102-2 (Ham).
 12-1 3-5 4 5 4

 Lura.
 100 M(urphy).
 35-1 a-1 5 4 5

 Hay Tay, 113 (Alford.
 100-1 40-1 7 5 7

 Explorer.
 100 (R. Tribe).
 100-1 40-1 7 6 7
 Six furlongs The start was straggling, with Levina and Woodchopper two lengths before the others, who were strung out. Levina and Sirocco made all the running, and they finished as named three lengths apart. Woodchopper was third, a dozen lengths back. Time-1.18 1-2.

Second Race-One mile - Won by Top-gallant; Nero was second and Mezzotint third. Third Race—One mile.—Won by Thurston, Galloping King was second and Mirage third. Time—1.47 3-4.

RACE NOT IN SIGHT.

Cup Committee Refuses to Grant a Conditional Acceptance.

Royal Yacht Squadron Must Challenge Definitely by Jan. 15.

greement to Carry Out Terms the Deed of Gift Demanded.



EUGENE KELLY, SR. Mr. Kelly was born in Trellick, County Tyrone, Ireland, in 1808, and at the age of twenty came to this country with \$3 in his pocket. His first position was that of cierk in Donnelly Bros. dry-goods store. He bext tried gold mining in 1802, and later started the San Francisco banking-house of Donchue, Kelly & Raiston.

Raiston, notice of Donottie, Kelly & Raiston, During the war he moved his business to New York, and lost considerable sums of money in Southern loans. In spite of this, however, he amassed money at a great rate, until when he retired from active husiness a few years ago he was reputed to he worth between \$12,000,000 and \$15,000,000.

Mr. Kelly was an ardent Home Ruleman, and his pecketbook was always open to any fund intended for the benefit of that Irish mevement.

MOLLIE B. WINS EASILY.

Takes the Opening Event at New Orleans from Corea. (Special to The Evering World.)

RACE TRACK, NEW ORLEANS, Dec. 17.- Fine weather and a fast track attracted about 2,000 persons to the course Among the late arrivals were O'Brien

and Johnson's stable from St. Asaph and Johnson's stable from St. Asaph and the balance of Tom Griffin's string.

Mollie B., in the first race, was carded at 100 pounds, but just before betting began to Secretary discovered that she was penalized twenty pounds, making her weight 120, in spite of this stiff impost she won from start to finish very cleverly. Corea beat Bob Campbell for the place. Sis furlangs. FIRST RACE,

After Ben Hill had run away twice three furlongs each time, they got away together, Corea, Bob Campbell and Mollie B. being the leaders. Mollie B. and His Honor flanked, raced together into the stretch as named. Mollie B. then drew away and won easily by two lengths adozen lengths from Corea, who was two lengths before Bob Campbell, Time—1.15 1-4.

The Cup Committee of the New York Yacht Club, met to-day and decided that it would be inadvisable to give the Royal Yacht Squadron any chance to dodge the Deed of Gift issue. A cablegram was and corruption upon the strength of the forwarded to Secretary Grant in which evidence adduced by the Lexow Cor the Cup Committee stated that they until Jan. Is to answer if they would receipt for the cup if won by Valkyrie.

The message was in the nature of an ultimatum from the New York Yacht Club, and unless the Royal Yacht Squadron agrees to acknowledge the Deed of Gift, there will be no race for

Deed of Gift, there will be no race for the America's Cup in 1895.

The full text of the Cup Committee's cable reads as follows:

NEW YORK, Dec. 17, 1894.

Grant, Secretary, Cowes:

As the America's Cup is purely a challenge trophy, and only valuable as such, we cannot agree that Squalion, after having won a match for it, may reject the custody of it.

By cable, Dec. 19, we agreed to accept challenge on condition that Squadron would receipt for Cup on terms of deed without conditions. We will fait until Jan. 15 for official reply from Squadron and fax first race ten months from receipt of their gnewer, and will advance date if possible later on.

JAMES D. SMITH, Chairman.

Secretary Grant's cablegram to Secretary Canfield on Saturday was as follows:
Landeld, New York Yacht Club, New York.
Cablegram to Doursven, it of brought before flag officers. Matter must be submitted to Club, if challenge is accepted new and representative wins. Squadron will not demand cup fatting satisfactory agreement as to receipt. Please cable. Signed:
This was regarded as a distinct evasion of the question at issue, in view of the Squadron's attitude on the Deed of Gift. The Squadron has sleadfastly refused to acknowledge the deed.
The question was evaded last year, and the New York Yacht Club does not intend that any such condition of affairs shall attend the next match.
The question has got to be met, said ex-Commodore Smith a few days ago, and it might just as well be met now."
The Cup Committee gives the Squadron nearly a month to meet and decide whether they will receipt for the cup. This seems a fair allowance of time. despite the plea of Lord Dunraven that the members of the Squadron are scattered about in various parts of the world. The chances are distinctly against a race for the America's Cup. It is believed, however, that Lord Dunraven that the members of the Squadron are scattered about in various parts of the world. The chances are distinctly against a race for the America's Cup. It is believed, however, that Lord Dunraven has the new Valkyrie well under way, and that in the event of the international match falling, he will bring the yacht over anyhow, and have a try for the numerous cups offered by the New York Yacht Club.
Lord Dunraven, as shown by his cablegram, is very anxious for a race, and has repeatedly stated that he did not care whether the America's Cup was offered or not.

EXTRA.

NOW BYRNES

The Superintendent's Charges Against Captains, Sergeants and Patrolmen.

FIGHTS THEM.

BRIBERY AND CORRUPTION.

Capts. Schmittberger and Martens Head the List of the Men Accused.

SERGEANTS O'TOOLE AND FINK

And Four Patrelmen Are Named as Subjects for Investi-

President James Martin, of the Board Byrnes against Capts. Schmitther of the West Thirtieth street stat Martens, of the East Thirty-fifth sig station; Sergt. O'Toole, of the Es Market Court squad; Detective-Ser Fink and Patrolmen William Mulcah of the Sanitary squad; Bernard O'Rei of the Oak street station; John Tow of the Charles street station, Michael J. Hickey, of the Church st



All of them are charged with bribery



CAPT. MARTENS. tained a copy of the official minutes of the Committee. The complaints were drawn up by Francis L. Wellman, coun-sel for the Board, under the direction of the Superintendent. The documents made a cumbersome and formidable looking roll as they laid on the Prestdent's desk this afternoon.

Stripped of legal phraseology and verbiage, the complaints simply charge that the officers named have been guilty

this seems a late allowance of the the members of the Squadron are scattered about in various parts of the world. The chances are distinctly against a race for the America's Cup. It is be leved, however, that Lord Dunnaven has the new Valkyrie well under way and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the international many and that is the event of the New York Yach Club.

Lord Dunraveh, as shown by his cable-gram, is very aftaxious for a race, and has repeatedly stated that he did not care whether the America's Cup was offered or not.

Schooley a Prisoner Now.

The trial of William Schooley was resumed before Jackson as induced by the Grand Jury on two counts. Pending trial is was released on bail, and was permitted until exposed by 'the World' counts. Pending trial is was released on bail, and was permitted until exposed by 'the World' counts. Pending trial is was released on bail, and was permitted until exposed by 'the World' counts. Pending trial is a was released on bail, and was permitted until exposed by 'the World' counts. Pending trial is a was released on bail, and was permitted until exposed by 'the World' counts. Pending trial is a was released on bail, and was permitted until exposed by 'the World' counts. Pending trial is a was released on bail, and was permitted until exposed by 'the World' counts. Pending trial to the counts in which he is law on the counts in which he is law of the trial to the counts. Pending trial to the counts of the trial to the counts of the trial to the counts of the tria